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Convention on the Rights of the Child

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Committee on the Rights of the Child
Sixty-sixth session

Summary record of the 1887th meeting
Held at the Palais Wilson, Geneva, on Tuesday, 3 June 2014, at 3 p.m.

Chairperson: Ms. Sandberg

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The meeting was called to order at 3.05 p.m.

Consideration of reports of States parties (*continued*)

Combined third and fourth periodic reports of India (continued) (CRC/C/IND/3-4; CRC/C/IND/Q/3-4 and Add.1)

Initial report of India under the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (CRC/C/OPAC/IND/1; CRC/C/OPAC/IND/Q/1 and Add.1)

Initial report of India under the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (CRC/C/OPSC/IND/1; CRC/C/OPSC/IND/Q/1 and Add.1)

1. *At the invitation of the Chairperson, the delegation of India took places at the Committee table.*

2. **Ms. Sekhar** (India) said that the Indian Constitution contained a number of provisions aimed at safeguarding the rights of children, and government policy had been designed to provide additional protection measures for children with disabilities. The Government had established a department for disability issues in 2012 and had recently appointed a special focal point to advocate for the specific needs of persons with disabilities. Steps had also been taken to expand the national census to incorporate additional disability categories and to improve the overall quality of disaggregated data.

3. The Government had introduced several programmes to protect the right to education for children with disabilities and to ensure that they could attend mainstream schools. Measures had been taken to make schools fully accessible, and Braille and large print textbooks were provided where appropriate. Intensive training on disability issues was also offered to teachers.

4. With regard to inclusion and rehabilitation measures, she said that her Government had devised a special financing scheme for organizations for persons with disabilities, in order to support the active participation of children with disabilities in Indian society. In an effort to reduce national disability rates, it had also introduced a medical screening programme, which included antenatal screening, neonatal care and vaccinations, for children under 18 years of age.

5. **Mr. Khera** (India) said that the national medical screening programme had significantly improved children's quality of life and had resulted in a sharp reduction in the national child mortality rate. The Government had taken steps to target the worst-performing health districts and had provided additional financial, material and human resources in order to improve the access of low-income families and their children to medical care. It had also invested in special newborn care units and provided additional training to medical staff. Similarly, a network of community-based health workers had been formed in order to support mothers in remote and rural areas who had difficulty reaching a hospital or medical centre to give birth safely at home, and to provide postnatal care. Such efforts had significantly improved access to medical services for expectant and new mothers, and had dramatically reduced neonatal and maternal mortality rates.

6. With regard to the promotion of neonatal and child health, he said that his Government had established a number of programmes to treat and prevent pneumonia and diarrhoea in newborns and had focused on expanding the national child immunization programme. Efforts had been made to tackle malnutrition and anaemia in children, and weekly iron and folic acid supplements were provided to all children under 5 years of age. The Government also actively encouraged exclusive breastfeeding during the first six months of life and had prepared guidelines on infant feeding practices for mothers living

with HIV. The use of infant milk substitute had not been widely promoted to date but steps had been taken to train local health workers on the importance of milk substitutes in the prevention of undernutrition.

7. **Mr. B.N. Reddy** (India) said that the national legislation set forth a series of protection measures and legal safeguards for refugees and asylum seekers. The Government remained committed to the principle of non-refoulement and had been working in close partnership with the Office of the United Nations High Commissioner for Refugees (UNHCR) to grant refugee status to asylum seekers from Afghanistan and Myanmar residing in large urban centres, such as New Delhi. Efforts had also been made to issue refugees with long-term visas and work permits to enable them to integrate fully into society and to access basic health and education services. In addition, UNHCR continued to provide legal assistance to eligible refugees who wished to apply for Indian citizenship.

8. His country considered that the Convention relating to the Status of Refugees and the Protocol thereto failed to adequately address the situation of large, developing countries with significant numbers of refugees and asylum seekers and focused too closely on the treatment of individual refugees. His Government had therefore taken steps at the national level to ensure that appropriate protection measures and legal safeguards were in place to safeguard the rights of refugees and asylum seekers, and work was under way to devise a national refugee act in close cooperation with relevant stakeholders.

9. India had traditionally been a safe haven for a great number of Afghan and Pakistani refugees and his Government remained committed to finding a durable solution for dealing with them. It had taken proactive steps to strengthen its partnership with UNHCR in order to ensure that refugees who wished to apply for Indian citizenship could do so freely.

10. **Mr. Joshi** (India) said that his Government had decided to review the minimum age of criminal responsibility in response to the recent rise in serious offences committed by minors. At present, minors convicted of an offence could be sentenced to a maximum of three years' rehabilitation, regardless of the severity of the offence. However, recent cases in which minors aged between 16 and 18 years had been involved in the gang rape and murder of girls showed that tougher sentences were required to discourage others from committing such heinous crimes. Under current proposals, the juvenile justice board would assume responsibility for hearing cases involving minors and would decide whether the severity of the offence merited consideration by the adult courts. It was hoped that those proposals would provide a better solution and that they would be adopted in the near future.

11. **Ms. Chadha** (India) said that 16.5 years was the minimum age for recruitment into national defence academies. Recruits received training for three years and did not enter the armed forces until they were at least 19.5 years of age. Moreover, students were required to have completed 12 years of schooling before they could be admitted, which in practice meant that students in those academies were at least 17 years of age. Applications from minors must be signed by a parent or guardian. No one below the age of 18 years was deployed in State military or paramilitary forces.

12. With regard to non-State armed groups, she said that her Government was aware that some left-wing extremists in Jammu and Kashmir and in the northeast of the country had recruited children between the ages of 6 and 12 years, although it was not known how many had been recruited. The children were initially used as informers or taught to fight with non-lethal weapons, and received weapons training later, at approximately 12 years of age. They were also used as human shields. Extremist groups often destroyed schools in an attempt to ensure that the children would have no alternative but to join them. The Government treated all such children as victims in need of care and protection.

13. Under the Bal Bandhu scheme implemented in 2010 by the National Commission for the Protection of Child Rights, youth volunteers served as defenders of children's rights.

Shortcomings had been identified in the scheme and its continuation was currently under review. A scheme for the reintegration of children involved in situations of violence had been in place since 2009. No one under 18 years of age had been detained under the Jammu and Kashmir Public Safety Act.

14. **Ms. Singh** (India) said that alternative schooling arrangements were provided for children whose schools had been destroyed by non-State armed groups. The Government also provided safe drinking water and basic infrastructure and used financial grants to encourage members of the community to become involved in civic action programmes in affected areas.

15. **Mr. Joshi** (India) said that the Juvenile Justice Act took precedence over all other laws in cases involving minors. Non-State armed groups often used children as human shields so that child casualties could be used as propaganda against the Government. Various rehabilitation and reintegration services were available to those children through the Integrated Child Protection Scheme. Pursuant to the Juvenile Justice Act, the identity of children in conflict with the law or involved in situations of violence must not be disclosed to the media, subject to criminal prosecution. Their identity could be disclosed only on the basis of a court order, and only then when it was in the best interests of the child.

16. **Ms. Chadha** (India) said that the recruitment of children by non-State armed groups was treated as the exploitation of children for the purpose of trafficking and was subject to severe penalties. With regard to extraterritorial jurisdiction, offences committed by Indian nationals anywhere in the world were punishable under Indian law. Extradition was carried out in accordance with bilateral agreements and the relevant international agreements to which India was a party.

17. **Ms. Singh** (India) said that the definition of human trafficking set out in the Criminal Law (Amendment) Act included recruitment to armed groups, and that the Act prescribed penalties ranging from 10 years' imprisonment to life imprisonment in cases where the victim was a minor. The recruitment of children into any armed group was treated as forced recruitment and was subject to severe penalties.

18. In connection with the sale of children, child prostitution and child pornography, she said that the Criminal Code included provisions on various offences covered by the Optional Protocol, such as the kidnapping, abduction and sale of children, while the Information Technology Act covered child pornography. Data on cases involving child pornography had been collected since 2012. The number of cases involving the sale of children had increased, from 49 in 2008 to 108 in 2012. An interministerial approach was used to address cases involving the sale of children, missing children and human trafficking, which were closely linked. A missing child portal had been established for that purpose, and was updated by police departments and child care institutions.

19. The definition of trafficking set out in the Criminal Law (Amendment) Act was in line with the relevant international instruments. Efforts to combat trafficking involved awareness-raising at the community level, in addition to the work of the Integrated Anti-Human Trafficking Units at the state level. Those units had rescued more than 3,000 children trafficked for purposes of sexual exploitation or labour exploitation, and their work was regularly monitored by the Ministry of Home Affairs. An anti-human trafficking web portal had been launched in 2014 as a way to involve all stakeholders in the fight against trafficking. A course offering certification in combating human trafficking was available to police officers and members of civil society. Training on the subject was also provided to judges, which had resulted in a greater number of trafficking convictions. A booklet describing standard operating procedures and best practices was issued to all Integrated Anti-Human Trafficking Units.

20. India had ratified the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime and the South Asian Association for Regional Cooperation Convention on Preventing and Combating Trafficking in Women and Children for Prostitution, and was actively involved in regional cooperation on the issue. It had signed a memorandum of understanding with Myanmar and was currently negotiating similar arrangements with Nepal and Bangladesh for the repatriation of trafficking victims. Under the Criminal Law (Amendment) Act, all victims of crime were entitled to compensation, including victims of sexual abuse or trafficking.

The meeting was suspended at 4.25 p.m. and resumed at 4.40 p.m.

21. **Mr. Joshi** (India) said that the Government aimed to reduce vulnerabilities among children at risk of trafficking, including by reducing poverty. To that end, the National Food Security Act ensured access to food for all, while the National Rural Employment Guarantee Act provided at least 100 days of employment to all households that volunteered to do unskilled manual work. The CHILDLINE India Foundation ran a hotline for children in distress in certain districts, which it was hoped would be expanded to cover the whole country. Bodies established at the state level included child protection services, adoption resource agencies and child welfare committees.

22. Government services for children deprived of family care emphasized family-based, non-institutional care services. Even after they reached the age of 18 years, such children continued to receive support in the form of housing assistance, vocational training and help finding employment. Special courts had been established in all districts to hear cases involving the offences covered by the Optional Protocol. Child protection commissions had been established in all but two states and union territories. Since 2007, the National Commission for the Protection of Child Rights had received approximately 9,500 complaints.

23. Cradle baby reception centres operated in only one or two states in India. Infants abandoned at those centres were brought before a Child Welfare Committee, which decided whether to place the child with an adoption agency or children's home or to return the child to the parents, if their identities were known. There was no disaggregated data specifically on children left at cradle baby reception centres, so it was not possible to know their fates. Various measures were taken to prevent illegal adoption, including financial support for foster parents. State bodies conducted periodic inspections of adoption agencies and orphanages, and a number of checks were in place at various levels of the adoption system, making it difficult for child traffickers to infiltrate the system. In a landmark judgement, the Supreme Court had ordered that any abandoned child must be reported immediately to the local social welfare department. Guidelines had also been issued to state governments on the prevention of illegal adoptions in hospitals and other facilities.

24. **Mr. Madi** asked whether the provisions of the Optional Protocol on the involvement of children in armed conflict had been incorporated into national law. Recruitment of children into armed groups was substantially different from child trafficking and should be specifically prohibited and classified as a separate offence. He invited the delegation to specify the minimum age of recruitment into police forces and village defence committees, and requested further specific information about the legal provisions governing extraterritorial jurisdiction.

25. **Ms. Chadha** (India) said that recruitment of children was covered by article 370 of the Criminal Law (Amendment) Act, which dealt with trafficking in persons. In her Government's view, human trafficking as defined in international law also included the recruitment of children into armed groups. Nevertheless, the Government would take into

consideration the Committee's recommendation to establish separate provisions on that offence.

26. **The Chairperson** said that the Committee considered recruitment into armed groups as a distinct and separate issue, and she welcomed the delegation's willingness to consider the Committee's recommendation in that regard.

27. **Ms. Singh** (India) said that the minimum age for recruitment into the police force or any paramilitary force was 18 years. In some cases, when police officers were killed in the line of duty, their children were given appointments in the force as a form of compensation. However, they performed only light duties that were different from normal police duties. A non-State actor had already been prosecuted under the Criminal Law (Amendment) Act for the recruitment of children in hostilities.

28. **Mr. Mezmur** (Country Rapporteur for the Optional Protocol on the sale of children, child prostitution and child pornography) said, in the light of the introduction of capital punishment for repeat sex offenders, that he hoped that lowering the age of criminal liability for certain offences would not result in children being put to death or imprisoned for life without parole, as that would constitute a clear violation of the Convention. He asked when the bill to amend the Transplantation of Human Organs Act would be adopted, whether there were plans to expand the child-friendly police model used in Karnataka and the "Track Child" portal to the rest of the country, and whether the State party cooperated with INTERPOL in connection with offences under the Optional Protocol. He also asked how the State party ensured that surrogacy arrangements did not amount to the sale of children or otherwise violate the Optional Protocol. He encouraged the State party to cooperate with the Hague Conference on Private International Law, which was researching the issue of surrogacy.

29. **Ms. Khazova** asked whether the Assisted Reproductive Technologies (Regulation) Bill expressly banned traditional surrogacy, given that that form of surrogacy, in effect, constituted the sale of children.

30. **Ms. Sekhar** (India) said that the Bill addressed gestational surrogacy. Traditional surrogacy was covered by other laws, including the Criminal Code.

31. **Ms. Chadha** (India) said that there was no specific law banning traditional surrogacy, but in cases where it amounted to the sale of children, charges could be brought under the Criminal Code.

32. **Mr. Joshi** (India) said that the Government was aware of its obligations under the Convention and would ensure that any reforms of the justice system would not result in the imprisonment of children for life. The Juvenile Justice (Care and Protection of Children) Amendment Act provided for the establishment of juvenile police units in all districts and the training of one officer in every police station to handle minors in conflict with the law. The "Track Child" portal had already been implemented nationwide; all children's homes and police stations needed to be encouraged to input data.

33. **Ms. Singh** (India) said that the Central Bureau of Investigation had an integrated anti-trafficking unit that cooperated with INTERPOL when necessary.

34. **Ms. Wijemanne** (Country Task Force), with reference to reports that there were some 33 million child brides in India, asked how effective the Prohibition of Child Marriage Act was and how it was being implemented.

35. **Mr. Joshi** (India) said that, although the Government was aware of the problem of child marriage, the issue was multidimensional and had to be tackled from several angles. The Act was progressive and not only banned child marriage but also punished those who promoted or performed it, including parents. However, children were never punished for

having entered into early marriage. Efforts were being made to raise public awareness of both the penalties for and the adverse effects of child marriage. Nearly all states had introduced conditional cash transfers for the families of girls who completed their basic education and did not marry before the age of 18 years. The Act provided for the possibility of annulment at the request of the wife or her parents if she was underage at the time of the marriage, as well as for maintenance and child custody.

36. Although some laws were specific to a given religious community, the Act applied to all persons living in India. With reference to the declaration made by India upon signature of the Convention on the Elimination of All Forms of Discrimination against Women, he said that although the Government did not interfere in the personal affairs of any community without obtaining its consent, the personal status laws of a particular community did not constitute a barrier to protecting girls from violence.

37. The figures on child marriage to which the Committee had referred were taken from the 2005 National Family Health Survey. The fourth Survey was being prepared by the International Institute for Population Sciences in Mumbai. It was expected to cover five times more households than previous surveys and would include a number of issues, including infant mortality, child marriage, HIV/AIDS and domestic violence. The number of child marriage cases brought before the courts had increased from 3 to 113 between 2009 and 2011, while the number of convictions had fallen over the same period. Women and children were entitled to legal aid at the district level.

38. **The Chairperson** observed that the prevalence of early marriage was partly attributable to the fact that over half of girls did not attend secondary school, and asked how the Government was encouraging giris to remain in school.

39. **Mr. Pal** (India), said in reply to questions on education raised at the previous meeting (CRC/C/SR.1886) in connection with the Convention, that the Integrated Child Development Services included a component on universal preschool education for children under 6 years of age, including disadvantaged children. In 2008, the Government had launched a 50 billion-rupee programme to assist states with building additional secondary schools, improving existing ones and strengthening the teaching of mathematics and science.

40. Discrepancies in school enrolment along gender and social status lines had been considerably reduced, especially at the primary level, by the Right of Children to Free and Compulsory Education Act of 2009. In 2014, the Government had allocated over 270 billion rupees to Sarva Shiksha Abhiyan, its programme for universal elementary education, and more than 130 billion rupees to the Midday Meal Scheme. Universal access had almost been achieved at the primary level and stood at 93 per cent at the upper primary level. The overall dropout rate had fallen from 9.1 per cent in 2010 to 5.6 per cent in 2013.

41. The Act also defined the role and responsibilities of teachers. In addition, parent-teacher committees had been set up in villages to monitor teacher absenteeism. According to independent studies, teacher attendance at the primary and upper primary levels had improved since 2006 and stood at between 80 and 85 per cent.

42. Regarding discrimination in education, he said that the Constitution prohibited discrimination but provided for affirmative action to promote the welfare of women and children. Children from scheduled castes or tribes were entitled to a number of scholarship programmes.

43. **The Chairperson** asked how the Government ensured that individual teachers did not discriminate against some of their students and whether it intended to increase the proportion of GDP allocated to education.

44. **Mr. Mezmur** (Country Task Force) invited the delegation to comment on the more than 8 million children not enrolled in school.

45. **Mr. Joshi** (India), while acknowledging that there was room to improve the quality of education, said that programmes were in place to train teachers in handling children with a range of special needs. He emphasized that it was not a matter of providing adequate resources but of ensuring that they were used appropriately. Some states had taken measures for girls, such as providing bicycles to travel to and from school and building separate toilets.

46. **Mr. Pal** (India) said that 95 per cent of schools had access to drinking water and 84 per cent had toilets.

47. **Mr. Mezmur**, pointing out that the Prohibition of Child Marriage Act did not necessarily cover all possible scenarios and set different minimum ages for girls and boys, asked whether the Act did indeed prevail over personal laws.

48. **Mr. Joshi** (India) said that the average age of marriage for both sexes was 17.1 years. The minimum age was the same under the Hindu Marriage Act, so the only potential problem lay in the Muslim Personal Law. The action plan associated with the Prohibition of Child Marriage Act focused on implementation, awareness-raising, community involvement and the training of civil servants.

49. **Mr. Mezmur** said that the Committee understood the impact of the State party's demographic and economic situation on the fulfilment of children's rights. It encouraged the State party to improve coordination, accountability and international cooperation and, while it agreed that additional funds were not always the solution, it wished to see more emphasis on prevention. It remained deeply concerned about discrimination against girls and children from scheduled castes and tribes and drew the State party's attention to emerging issues, including adoption, alternative care, surrogacy and access to good quality, child-friendly services. He emphasized that the key to protecting children's rights was implementation, and urged the State party to ensure that its laws and programmes were given effect. He thanked the delegation for its receptive and frank approach and said that the Committee looked forward to seeing how the State party followed up on the concluding observations.

50. **Mr. Joshi** (India) said that the Government would continue to work to advance children's rights by strengthening the relevant legal framework, striving to implement policies and programmes effectively and involving all stakeholders. His delegation had taken note of the critical gaps and shortcomings pointed out by the Committee and looked forward to receiving its recommendations.

The meeting rose at 6 p.m.